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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.			EXAMINER	
1100 NEW YORK AVENUE, N.W.			AIRAPETIAN, MILA	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/632,799	<b>Applicant(s)</b> CHENG ET AL.
	<b>Examiner</b> MILA AIRAPETIAN	<b>Art Unit</b> 3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 July 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-88 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-88 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

Claim Rejections - 35 USC § 112 has been withdrawn due to Applicant's amendment.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 1-22, 29-50, and 57-78, 85-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ivanov (U.S. Patent No. 7343355) in view of Hammond (20020082977).**

As per claim 1, Ivanov teaches "a method for generating an optimized commodity distribution plan, the method comprising the steps of: performing one or more elasticity computations for one or more past commodity products sold at one or more auction sites" (see Ivanov column 3 lines 52-67 and column 5 lines 35-47; where elasticity computations are performed based on previous commodity sales.) and "generating an auction forecast price for one or more present commodity products to be at said one or more auction sites using said one or more elasticity computations, wherein each of said present auction commodity products and said past commodity products have an associated commodity model type and a commodity model year" (see Ivanov column 4

lines 60-65; where an optimized pricing plan is determined based on elasticity computations.). Ivanov fails to explicitly teach where the commodity is set for auction. Hammond, in an analogous art, explicitly teaches the commodity is set for auction (see Hammond abstract) (see Hammond paragraphs 113-116; where a distribution plan is set to determine which market place can be used for auctioning the commodity). The advantage of such a feature is that it enables the generation of the most profit per sale. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the features of the commodity is set for auction and "generating an optimized auction commodity distribution plan for said one or more present auction commodity products using said generated forecast price" taught by Hammond to Ivanov in order to maximize the profit per sale.

As per claim 2, Ivanov teaches "the method of claim 1, wherein said step of generating an auction forecast price comprises the steps of: obtaining retail market performance data for one or more past retail commodity products sold at one or more retail sites" (see Ivanov column 4 lines 60-65; where past sale prices at specific market places is collected.), "obtaining regional data relevant to said one or more retail sites" (see Ivanov column 6 lines 49-59; where geographic data is collected. Geographic data is the same as regional.), "performing a regional trend analysis of sales for said one or more past retail commodity products using said retail market performance data and regional data" (see Ivanov column 6 lines 1-23 and column 6 lines 49-59; where a trend

analysis is performed. Collected data is analyzed to determine the best pricing plan.), "generating a time-series model for said one or more past retail commodity products using said regional trend analysis" (see Ivanov column 9 lines 16-33; where a time-series model is developed.), and "determining a price-level adjustment for said one or more present auction commodity products based on said elasticity computations and said time-series models" (see Ivanov column 6 lines 1-23; where a price adjustment is done.). Ivanov fails to explicitly teach "performing a seasonality analysis for said one or more past auction commodity products" and the time-series model is generated using the seasonality analysis. Examiner takes Official Notice that it is old and well-known in the art to perform the steps of "performing a seasonality analysis for said one or more past auction commodity products" and the time-series model is generated using the seasonality analysis. The advantage of these steps is that it further defines the data analysis and enables a more accurate auction forecast price prediction. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to modify Ivanov to include the old and well-known steps of "performing a seasonality analysis for said one or more past auction commodity products" and the time-series model is generated using the seasonality analysis in order to more accurately forecast an auction sale price.

As per claim 3, Ivanov does not expressly teach the specific data recited; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural

elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106.

As per claim 4, Ivanov teaches:

The method of claim 2, wherein said step of performing a regional trend analysis comprises the step of determining a profit margin and a time-to-turn for said one or more past retail commodity products using said retrieved retail market performance data (see Ivanov column 6 lines 40-59; where a profit margin based on the regional trend analysis is determined.).

As per claim 5, Ivanov fails to explicitly teach “performing a seasonality comprises the step of quantifying a seasonal effect on a past auction commodity price paid for said one or more past auction commodity products”. Examiner take Official Notice that it is old and well-known in the art to perform a seasonality analysis based on the seasonal effect on a commodity price. The advantage of such a feature is that it enables one to more accurately forecast an auction price. It would have been obvious, at the time of the invention, to modify Ivanov to include the steps of “performing a seasonality comprises the step of quantifying a seasonal effect on a past auction commodity price

paid for said one or more past auction commodity products" in order to more accurately forecast an auction price.

As per claim 6, Ivanov teaches:

The method of claim 1, wherein said step of performing one or more elasticity computations comprises the step of determining a self-price elasticity value representing a percentage decrease in said past auction commodity price paid for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said past auction commodity products, said first and second past auction commodity products having the same commodity model type and same commodity model year (see Ivanov column 3 lines 52-67; where elasticity is defined and computed the same as the present invention.).

As per claim 7, Ivanov teaches:

The method of claim 6, wherein said step of performing one or more elasticity computations further comprises the step of determining a cross-price elasticity value representing a percentage decrease in said past auction commodity price paid for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said one or more past auction commodity products, wherein said first and second past auction commodity products have different model types (see Ivanov column 3 lines 52-67 and column 4 lines 1-13; where elasticity is defined and computed the same as the present invention.).

As per claim 8, Ivanov teaches:

The method of claim 7, wherein said step of performing one or more elasticity computations further comprises the step of determining a cross-price elasticity value representing a percentage decrease in said past auction commodity price for a first one of said one or more past auction commodity products due to a percentage increase in auction volume of a second one of said one or more past auction commodity products, wherein said first and second past auction commodity products have a different commodity model type (see Ivanov column 3 lines 52-67 and column 4 lines 1-13; where elasticity is defined and computed the same as the present invention.).

As per claim 9 and 11, Ivanov fails to teach "obtaining present/past auction commodity description data for said one or more present auction commodity products". Hammond, in an analogous art, teaches "obtaining present auction commodity description data for said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.). The advantage of such a feature is that it enables the proper marketing and sale of a commodity. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the feature of "obtaining present/past auction commodity description data for said one or more present auction commodity products" in order to enable the proper marketing and sale of a commodity.

As per claim 10 and 12, Ivanov fails to teach "obtaining a present/past commodity usage measurement for said one or more present auction commodity products", "obtaining one or more present/past optional features associated with said one or more present/past auction commodity products", and "obtaining a present/past auction type associated with said one or more present auction commodity products". Hammond, in an analogous art, teaches "obtaining a present/past commodity usage measurement for said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.), "obtaining one or more present/past optional features associated with said one or more present auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.), and "obtaining a present/past auction type associated with said one or more present/past auction commodity products" (see Hammond paragraphs 128-136; where commodity description is maintained.). The advantage of such a feature is that it enables the proper marketing and sale of a commodity. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the feature of "obtaining a present/past commodity usage measurement for said one or more present auction commodity products", "obtaining one or more present/past optional features associated with said one or more present/past auction commodity products", and "obtaining a present/past auction type associated with said one or more present auction commodity products" in order to enable the proper marketing and sale of a commodity.

As per claims 13-16, Ivanov fails to explicitly teach "determining an initial forecast auction commodity price for each of said one or more present auction commodity products using said past auction commodity description data and said present auction commodity description data", "performing a usage measurement description analysis, performing a commodity optional feature analysis, and performing an auction type analysis", "defining one or more past commodity product groups, wherein search of said one or more past commodity product groups is representative of said one or more past auction commodity products that have the same commodity model type and the same commodity model year and generating a usage measurement deduction curve for each of said one or more past auction commodity product groups", and "using said past auction commodity usage measurements associated with said past commodity product group to generate said usage measurement deduction curve". Hammond, in an analogous art, teaches "determining an initial forecast auction commodity price for each of said one or more present auction commodity products using said past auction commodity description data and said present auction commodity description data" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.), "performing a usage measurement description analysis, performing a commodity optional feature analysis, and performing an auction type analysis" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.), "defining one or more past commodity product groups, wherein search of said one or more past commodity product groups is representative of said one or more past auction

commodity products that have the same commodity model type and the same commodity model year and generating a usage measurement deduction curve for each of said one or more past auction commodity product groups" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.), and "using said past auction commodity usage measurements associated with said past commodity product group to generate said usage measurement deduction curve" (see Hammond paragraphs 113-116, 119-121, and 128; where an initial forecast based on a commodity's previous performance is determined.). The advantage of these features is that it promotes developing a more accurate pricing forecast. It would have been obvious, at the time of the invention, to combine the features of "determining an initial forecast auction commodity price for each of said one or more present auction commodity products using said past auction commodity description data and said present auction commodity description data", "performing a usage measurement description analysis, performing a commodity optional feature analysis, and performing an auction type analysis", "defining one or more past commodity product groups, wherein search of said one or more past commodity product groups is representative of said one or more past auction commodity products that have the same commodity model type and the same commodity model year and generating a usage measurement deduction curve for each of said one or more past auction commodity product groups", and "using said past auction commodity usage measurements associated with said past commodity product

group to generate said usage measurement deduction curve" taught by Hammond to Ivanov in order to develop a more accurate pricing forecast.

As per claims 17 and 18, Ivanov fails to explicitly teach "determining a usage measurement deduction for said one or more present auction commodity products using said generated usage measurement deduction curve for said past commodity product group having the same commodity model type and the same commodity model year as said one or more present auction commodity products" and "defining one or more past commodity product feature groups, wherein each of said one or more past commodity product feature groups is representative of said one or more past auction commodity products that have the same past optional features and generating a past commodity product feature model for each of said one or more past commodity product feature groups". Examiner takes Official Notice that it is old and well-known in the art to perform the steps of "determining a usage measurement deduction for said one or more present auction commodity products using said generated usage measurement deduction curve for said past commodity product group having the same commodity model type and the same commodity model year as said one or more present auction commodity products" and "defining one or more past commodity product feature groups, wherein each of said one or more past commodity product feature groups is representative of said one or more past auction commodity products that have the same past optional features and generating a past commodity product feature model for each of said one or more past commodity product feature groups". The advantage of such

features is that they enable a more accurate description of a forecasted sale price. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to modify Ivanov to include the steps of "determining a usage measurement deduction for said one or more present auction commodity products using said generated usage measurement deduction curve for said past commodity product group having the same commodity model type and the same commodity model year as said one or more present auction commodity products" and "defining one or more past commodity product feature groups, wherein each of said one or more past commodity product feature groups is representative of said one or more past auction commodity products that have the same past optional features and generating a past commodity product feature model for each of said one or more past commodity product feature groups" in order to enable a more accurate description of a sale price.

As per claim 19, Ivanov fails to explicitly teach "defining one or more past auction type groups, wherein said one or more past auction type groups is representative of said one or more past auction commodity products that are associated with the same past auction type" and "generating a past auction type model for each of said one or more past auction type groups". Hammond, in an analogous art, explicitly teaches "defining one or more past auction type groups, wherein said one or more past auction type groups is representative of said one or more past auction commodity products that are associated with the same past auction type" (see Hammond paragraphs 113-116; where previous auctions from specific marketplaces are examined.) and "generating a

past auction type model for each of said one or more past auction type groups" (see Hammond paragraphs 113-116; where past auction types are modeled.). The advantage of these features is that it enables that a commodity is sold for an optimal profit. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the features of "defining one or more past auction type groups, wherein said one or more past auction type groups is representative of said one or more past auction commodity products that are associated with the same past auction type" and "generating a past auction type model for each of said one or more past auction type groups" taught by Hammond to Ivanov in order to sell a commodity for an optimal profit.

As per claim 20, Ivanov fails to explicitly teach "determining a confidence distance between said one or more present auction commodity products and said one or more past auction commodity products", "assigning a confidence weight to said one or more past auction commodity products based on said determined confidence distance", and "setting said initial auction forecast price for said one or more present auction commodity products equal to a weighted average of said past auction price paid for said one or more past auction commodity products using said assigned confidence weight". Hammond, in an analogous art, explicitly teaches "determining a confidence distance between said one or more present auction commodity products and said one or more past auction commodity products" (see Hammond paragraphs 113-116 and 128; where a confidence value for the auction price is set.), "assigning a confidence

weight to said one or more past auction commodity products based on said determined confidence distance" (see Hammond paragraphs 113-116 and 128; where a confidence weight is assigned.), and "setting said initial auction forecast price for said one or more present auction commodity products equal to a weighted average of said past auction price paid for said one or more past auction commodity products using said assigned confidence weight" (see Hammond paragraphs 113-116 and 128; where an initial auction forecast price is set.). The advantage of these features is that it enables that a commodity is sold for an optimal profit. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the features of "determining a confidence distance between said one or more present auction commodity products and said one or more past auction commodity products", "assigning a confidence weight to said one or more past auction commodity products based on said determined confidence distance", and "setting said initial auction forecast price for said one or more present auction commodity products equal to a weighted average of said past auction price paid for said one or more past auction commodity products using said assigned confidence weight" taught by Hammond to Ivanov in order to sell a commodity for an optimal profit.

As per claims 21 and 22, Ivanov fails to explicitly teach "retrieving present retail market condition data, present commodity product demand data based on seasonal changes, present commodity product supply data, and present auction volume data" and "generating an auction forecast price step generates said auction forecast price by

adjusting said set initial auction forecast price for said one or more present auction commodity products using said determined price level adjustments, said present retail market condition data, said present commodity product demand data, said present commodity product supply data, and said present auction volume data". Hammond, in an analogous art, teaches "retrieving present retail market condition data, present commodity product demand data based on seasonal changes, present commodity product supply data, and present auction volume data" (see Hammond paragraphs 113-116, 119-120, and 128; where data for determining an auction forecast price is collected. Forecast data includes present price conditions, past price conditions, supply data, and demand data.) and "generating an auction forecast price step generates said auction forecast price by adjusting said set initial auction forecast price for said one or more present auction commodity products using said determined price level adjustments, said present retail market condition data, said present commodity product demand data, said present commodity product supply data, and said present auction volume data" (see Hammond paragraphs 113-116, 119-120, and 128; where data for determining an auction forecast price is collected. Forecast data includes present price conditions, past price conditions, supply data, and demand data.). The advantage of these features is that it enables that a commodity is sold for an optimal profit. It would have been obvious, at the time of the invention, to one of ordinary skill in the art to combine the features of "retrieving present retail market condition data, present commodity product demand data based on seasonal changes, present commodity product supply data, and present auction volume data" and "generating an auction

forecast price step generates said auction forecast price by adjusting said set initial auction forecast price for said one or more present auction commodity products using said determined price level adjustments, said present retail market condition data, said present commodity product demand data, said present commodity product supply data, and said present auction volume data" taught by Hammond to Ivanov in order to sell a commodity for an optimal profit.

As per claims 85-88, same reasoning applied to claims 1-4.

#### ***Response to Arguments***

Applicant's arguments filed 07/07/2008 have been fully considered but they are not persuasive.

In response to Applicant's argument that Hammond does not teach means for generating an optimized distribution plan, it is noted that Ivanov was applied for this feature (col. 4; lines 60-65).

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MILA AIRAPETIAN whose telephone number is (571)272-3202. The examiner can normally be reached on Monday-Friday 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. A./  
Art Unit 3625